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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D-2004-63882

DAVID GEORGE TURNER, P.T.
2110 McLean Place
Livermore, CA 94550

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Physical Therapist License No. PT 18170,
Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Complainant Steven K. Hartzell is the Executive Officer of the Physical
Therapy Board of California. He brought this action solely in his official capacity and is
represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
by David M. Carr, Deputy Attorney General.

2. Respondent David G. Turner is represented by Edward A. Hinshaw, of
Hinshaw, Draa, Marsh, Still & Hinshaw, 12901 Saratoga Avenue, Saratoga, California.

3. On or about April 21, 1992, the Physical Therapy Board of California
issued Physical Therapist License No. PT 18170 to David G. Turner, P.T. ("Respondent"). This

1 license was in full force and effect at all times relevant to the charges brought in Accusation No.
2 1D-2004-63882 and will expire on March 31, 2008, unless renewed.

3 **JURISDICTION**

4 4. Accusation No.1D-2004-63882 was filed before the Physical Therapy
5 Board of California, Department of Consumer Affairs ("Board"), and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent. Respondent timely filed his Notice of Defense contesting the Accusation. A
8 copy of Accusation No. 1D-2004-63882 is attached as exhibit A and incorporated herein by
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read and fully understands the charges and
12 allegations in Accusation No. 1D-2004-63882. Respondent has also carefully read and fully
13 understands the effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to confront and
16 cross-examine the witnesses against him; the right to present evidence and to testify on his own
17 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
18 production of documents; the right to reconsideration and court review of an adverse decision;
19 and all other rights accorded by the California Administrative Procedure Act and other applicable
20 laws.

21 7. Respondent voluntarily and knowingly waives and gives up each right set
22 forth above.

23 **CULPABILITY**

24 8. Respondent understands and agrees that the charges and allegations in
25 Accusation No. 1D-2004-63882, if proven at a hearing, constitute cause for imposing discipline
26 upon his Physical Therapist License.

27 9. For the purpose of resolving the Accusation without the expense and
28 uncertainty of further proceedings, Respondent admits, as alleged in paragraph 24, subsection (A)

1 of the accusation, that he failed to properly supervise and/or ensure proper supervision of all
2 physical therapy services provided by physical therapy assistants, in violation of section 1398.44,
3 CCR Title 16, and as alleged in Paragraph 24, subsection (G) of the accusation, that he failed , as
4 the manager and supervising physical therapist, to conduct a regularly scheduled and
5 documented case conference between the supervising physical therapist and the physical therapy
6 assistant rendering physical therapy services, in violation of section 1398.44 (g), CCR Title 16.

7 10. Respondent agrees that his Physical Therapist License is subject to
8 discipline, and he agrees to be bound by the Board's imposition of discipline as set forth in the
9 Disciplinary Order below.

10 **CIRCUMSTANCES IN MITIGATION**

11 _____ 11. Respondent has never before been the subject of any disciplinary action
12 and has admitted responsibility at an early stage in the proceedings.

13 **RESERVATION**

14 12. The admissions made by Respondent herein are only for the purposes of
15 this proceeding, or any other proceedings in which the Physical Therapy Board of California, or
16 other professional licensing agency is involved, and shall not be admissible in any other criminal
17 or civil proceeding.

18 **CONTINGENCY**

19 13. This stipulation shall be subject to approval by the Physical Therapy
20 Board. Respondent understands and agrees that counsel for Complainant and the staff of the
21 Board may communicate directly with the Board regarding this stipulation and settlement,
22 without notice to or participation by Respondent. By signing the stipulation, Respondent
23 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
24 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
25 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force
26 or effect, except for this paragraph, it shall be inadmissible in any legal action between the
27 parties, and the Board shall not be disqualified from further action by having considered this
28 matter.

1 14. The parties understand and agree that facsimile copies of this Stipulated
2 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
3 force and effect as the originals.

4 15. In consideration of the foregoing admissions and stipulations, the parties
5 agree that the Board may, without further notice or formal proceeding, issue and enter the
6 following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Respondent David George Turner, P.T., holder
9 of Physical Therapist License No. PT 18170, shall be publicly reprovved by the Physical Therapy
10 Board of California for violating Business and Professions Code section 2630 and Title 16
11 California Code of Regulations section 1398.44 and shall comply with the following terms and
12 conditions. A copy of the public reprovral is attached as Exhibit B and is incorporated herein by
13 reference as if fully set forth.

14 A. COST RECOVERY. Respondent is ordered to reimburse the Board the
15 actual and reasonable prosecutorial costs in this matter of \$1,500.00 within ninety (90) days of
16 the effective date of the decision. Respondent's failure to pay the ordered reimbursement, or any
17 agreed upon payment, may constitute a violation of this order. The filing of bankruptcy by
18 Respondent shall not relieve Respondent of his responsibility to reimburse the Board. If
19 Respondent is in default of his responsibility to reimburse the Board, the Board will collect cost
20 recovery from the Franchise Tax Board, the Internal Revenue Service, or by any other means of
21 attachment of earned wages legally available to the Board. Failure to fulfill the obligation could
22 also result in attachment to Department of Motor Vehicle registrations or license renewals.

23 B. WRITTEN EXAMINATION ON THE LAWS AND REGULATIONS
24 GOVERNING THE PRACTICE OF PHYSICAL Therapy. Within 90 days of the effective date
25 of this decision, Respondent shall take and pass the Board's written examination on the laws and
26 regulations governing the practice of physical therapy in California. If Respondent fails to pass
27 the examination, he shall be suspended from the practice of physical therapy until a repeat
28 examination is successfully passed. Failure to comply with this condition constitutes a material

1 breach of this order.

2 C. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPIST
3 DUTIES WHILE SUBJECT TO PUBLIC REPROVAL. It is not contrary to the public interest
4 for Respondent to practice and/or perform his duties as a physical therapist after issuance of the
5 public reproval. Accordingly, it is not the intent of the Board that this order or the fact that
6 Respondent has been publicly reproved shall be used as the sole basis for any third party payor to
7 remove Respondent from any list of approved providers.

8 D. FAILURE TO COMPLY WITH ORDER. A material breach by
9 Respondent of this order shall constitute unprofessional conduct and shall be a basis for further
10 disciplinary action by the Board. In such circumstances, Complainant may reinstate the
11 Accusation in Case No. 1D 2004 63882, file an amended accusation, and/or file a supplemental
12 accusation alleging any material breach of this order by Respondent as unprofessional conduct.

13
14 ACCEPTANCE

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and
16 have fully discussed it with my attorney. I understand the stipulation and the effect it will have
17 on my Physical Therapist License . I enter into this Stipulated Settlement and Disciplinary Order
18 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
19 Physical Therapy Board of California.

20 DATED: October 21, 2007

21
22 Original Signed By:
23 DAVID GEORGE TURNER, P.T.
24 Respondent

25
26
27 I have read and fully discussed with Respondent David George Turner, P.T., the
28 terms and conditions of this Stipulated Settlement and Disciplinary Order. I approve its form

1 and content.

2 DATED: November 1, 2007

3
4 Original Signed By:
5 EDWARD A. HINSHAW
6 Attorney for Respondent David Turner

7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Physical Therapy Board of California of the Department of
10 Consumer Affairs.

11
12 DATED: September 13, 2007

13 EDMUND G. BROWN JR, Attorney General
14 of the State of California

15 Original Signed By:
16 DAVID CARR,
17 Deputy Attorney General
18 Attorneys for Complainant

Exhibit A

Accusation No. 1D 2004 63882

Exhibit B
Public Reproval
Case No. 1D 2004 63882

David Turner, PT
2110 Mclean Place
Livermore, CA 94550

Re:Public Reapproval Pursuant to Decision in
Case No. ID 2004 63882

Dear Mr. Turner:

On December 5, 2006 an Accusation was filed by the Physical Therapy Board of California in which it was alleged that in or about October 2004 you failed, as supervising licensed physical therapist, to supervise or ensure proper supervision of all physical therapy services provided by physical therapy assistants, in violation of section 1398.44 of Title 16 of the California Code of Regulations. It was further alleged that you failed, as the supervising licensed physical therapist, to conduct a regularly scheduled and documented case conference with the physical therapy assistant who provided physical therapy services, in violation of section 1398.44(g) of Title 16 of the California Code of Regulations.

You have admitted these failures, paid the cost recovery, and taken and passed the Board's written examination on the laws and regulations governing the practice of physical therapy in California.

Wherefore, pursuant to the authority of Business and Professions Code section 495, the Physical Therapy Board of California hereby issues this public reapproval.

Original Signed By: _____

For the Physical Therapy Board
Department of Consumer Affairs
State of California

Nancy Krueger, PT
President

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DAVID GEORGE TURNER, PT

Physical Therapist License No. PT 18170

Respondent.

Case No. 1D 2004 63882

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 3, 2008.

It is so ORDERED January 31, 2008

ORIGINAL SIGNED BY:

PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS